

Notice of Allowability

Application No.

10/629,423

Examiner

Jerry Redman

Applicant(s)

MALEK, NEEMAN

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to telephonic communication on 10/21/2004.
2. ☒ The allowed claim(s) is/are 1-7.
3. ☒ The drawings filed on 29 July 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>attached hereto</u> . |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date <u>7/29/03 & 12/18/03</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment _____ |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

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Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 8-9, drawn to a method of installing a sash, classified in class 49, subclass 506.
- II. Claims 1-7, drawn to a lock shoe assembly, classified in class 49, subclass 447.

The inventions are distinct, each from the other because:

Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the apparatus as claimed can be used to practice another and materially different process such as removing a channel guide which mounts the shoe and counterbalance assembly to the sash, attach the sash to the shoe and counterbalance assembly, then re-attach the channel guide to conceal the shoe and counterbalance assembly.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Mr. Seemann on 10/19/2004 a provisional election was made without traverse to prosecute the invention of Group II, claims 1-7.

Affirmation of this election must be made by applicant in replying to this Office action.

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Claims 8-9 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Canadian patent no. 2224152 as cited by the applicant discloses an arm (45), a platform 38 and a spring clip (40) having an opening but fails to disclose an arm extending upward through a vertical opening in the platform. U.S. patent to Westfall ('828) discloses a lock shoe having a pivoting element similar to that of the applicant's invention. U.S. patent to Erickson et al. ('212) disclose a pivoting locking shoe similar to that of the applicant's invention. U.S. patent to May ('557) discloses a pivoting locking shoe vertically moveable within a jamb similar to that of the applicant's invention.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

~~In claim 1, lines 1-2,~~

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“for a window comprising a vertical jamb and a sash mounted in the window for movement up and down alongside the jamb, the lock shoe system” has been deleted;

In line 3, after “comprising;”, the following has been added
--a window comprising a vertical jamb and a sash mounted in the window, --

In line 7, “for” has been changed to --,-- and “configured for” has been changed to --and--;

In line 11, “configured for” has been deleted;

In line 13, “configured for” has been deleted;

In claim 4, lines 1-2,

“for a window comprising a vertical jamb and a sash mounted in the window for movement up and down alongside the jamb, the lock shoe system” has been deleted;

In line 3, after “comprising;”, the following has been added
--a window comprising a vertical jamb and a sash mounted in the window, --

In line 6, "for" has been changed to --,--;

In line 7, "configured for" has been deleted;

In line 9, "configured for" has been deleted, --upward—has been inserted after "extending", and --vertical—has been inserted after "first" second occurrence;

In claim 6, lines 1-2,

"for a window comprising a vertical jamb and a sash mounted in the window for movement up and down alongside the jamb, the lock shoe system" has been deleted;

In line 3, after "comprising;", the following has been added
--a window comprising a vertical jamb and a sash mounted in the window, --

In line 6, "for" has been changed to --,-- and "configured for" has been changed to --and--;

In line 10, "configured for" has been deleted;

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In line 12, "configured for" has been deleted;

In claim 7, lines 1-2,

"for a window comprising a vertical jamb and a sash mounted in the window for movement up and down alongside the jamb, the lock shoe system" has been deleted;

In line 3, after "comprising;", the following has been added
--a window comprising a vertical jamb and a sash mounted in the window, --

In line 3, "a" second occurrence has been changed to --the--;

In line 10, "for" has been changed to --,--;

In line 12, "configured for" has been deleted; and

Claims 8-9 have been deleted.


Authorization for this examiner's amendment was given in a telephone interview with Mr. Seemann on 10/21/2004.

Claims 1-7 are allowable.

The following is an examiner's statement of reasons for allowance: the recitation of a lock shoe system comprising a sash, a window, a jamb extending vertically, a balance shoe mounted in the jamb, a platform on the balance shoe, and a first arm mounted to the balance shoe rotating about a first axis and having a portion having a first end hooking to the jamb along a vertical space of the jamb when in a first position, and the portion having a second end extending upward through a first vertical opening in the platform when the arm is rotated to a second position is seen as an unobvious improvement over the art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication should be directed to Jerry Redman at telephone number 703-308-2120.



Jerry Redman
Primary Examiner
